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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,368	11/20/2003	Lewis Michael Popplewell	IFF-43	9535
48080	7590	12/09/2005	EXAMINER	
INTERNATIONAL FLAVORS & FRAGRANCES INC.			HARDEE, JOHN R	
521 WEST 57TH ST			ART UNIT	
NEW YORK, NY 10019			PAPER NUMBER	

1751

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,368

Applicant(s)

POPPELWELL ET AL.

Examiner

John R. Hardee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-59 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Information Disclosure Statement

1. Applicant has submitted approximately **200** references for the examiner's consideration in the three Information Disclosure Statements filed to date. Of these, numerous references do not appear particularly pertinent to the instant claims. It is unclear why these were cited because they do not appear to be "material to patentability" of the claimed invention (37 CFR 1.56).

MPEP 2004, particularly paragraph (13), sets forth guidelines to aid applicants in their duty of disclosure. In this section it is stated:

"It is desirable to avoid submission of long lists of documents if it can be avoided. Eliminate clearly irrelevant or marginally pertinent cumulative information. If a long list is submitted, highlight those documents, which have been specifically brought to the applicant's attention and/or are known to be of most significance. See *Penn Yan Boats, Inc., v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, 175 USPQ 260 (S.D. Fla. 1972), *aff'd*, 479 2d 1388, 178 USPQ 577 (5th Cir. 1973), *cert. denied* 414 U.S. 874 (1974)."

2. The examiner requests that applicant provide a list of the 3-5 most pertinent references and their relevance to the presently claimed invention.

DETAILED ACTION

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, 9-18, 50, 52, 56 and 59, drawn to a process of perfuming a surface, classified in class 510, subclass 101.

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- II. Claims 4-8, drawn to a process of perfuming a surface, classified in class 510, subclass 101.
- III. Claims 19-26, 40 and 41, drawn to a process of perfuming a surface, classified in class 510, subclass 101.
- IV. Claims 31-39, 42, 43, 51 and 53, drawn to a process of perfuming a surface, classified in class 510, subclass 101.
- V. Claims 44-46, 54 and 57, drawn to a polymethyl methacrylate polymer composition, classified in class 526, subclass 318.
- VI. Claims 27-30, 47-49, 55 and 58, drawn to an aqueous treatment composition, classified in class 510, subclass 475.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions V or VI and any of I-IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case a different product, such as a perfume-impregnated cyclodextrin could be used to practice the methods. Group VI does not require the plasticizers of Group V, and Group V does not require the surfactant of Group VI. Group IV does not require the disengagement, rinsing and drying steps of Groups I-III. Group III requires a second plurality of particles not required by the other methods. Group II has an admixing step not required by Groups I, III and IV.

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5. Because these inventions are distinct for the reasons given above and the search required for any one Group is not required for any other Group, restriction for examination purposes as indicated is proper.

6. Claims 1-59 are generic to a plurality of disclosed patentably distinct species comprising polymer particles. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species of polymer, even though this requirement is traversed. If Group III is elected, both polymers must be specified.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Because the restriction requirement is relatively complex, no telephone restriction was attempted.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Hardee', with a long horizontal flourish extending to the right.

John R. Hardee
Primary Examiner
December 5, 2005